

**MINUTES OF THE SPECIAL MEETING OF THE TRINIDAD CITY COUNCIL**  
**THURSDAY, MAY 21, 2020**

**I. CALL TO ORDER**

Mayor Ladwig called the Webex virtual meeting to order at 6:00pm. Council members in attendance: Ladwig, Miller, West, Grover, Davies. City Staff in attendance: City Manager Eli Naffah, City Clerk Gabriel Adams.

**II. PLEDGE OF ALLEGIANCE**

**III. APPROVAL OF THE AGENDA**

*Motion (Miller/West) to approve the agenda as amended. Passed unanimously.*

**IV. ITEMS FROM THE FLOOR – *There were no items from the floor.***

*(Three (3) minute limit per Speaker unless Council approves request for extended time.)*

**Bryce Kenny** – Trinidad

We are in a new era of financial austerity. Grant funding is not guaranteed in the future for the City, nor the Rancheria. Please keep this in mind in your future decisions.

**Anita Thompson** – Trinidad

Are Trinidad short-term rentals still following the moratorium as new Covid cases rise?

**Norman Thompson** – Trinidad

Requested a status update on the fire hydrant in front of 840 Van Wycke. City Manager Naffah will follow up with them.

**Steve Madrone** – Trinidad Area

Friendly reminder to everyone to mute their microphones.

**Ken Miller** – Trinidad Area

Should we be concerned with the Casino opening up Friday?

**V. CONSENT AGENDA**

**1. Stormwater Project Update**

*Motion (Miller/West) to approve the consent agenda as submitted. Passed unanimously.*

**XI. DISCUSSION/ACTION AGENDA ITEMS**

**1. Discussion/Decision regarding Resolution 2020-07; Acknowledging the Public Service of Bryan Buckman.**

**Mayor Ladwig** read the resolution aloud, highlighting Buckman's successes and accomplishments during his nearly 20-year career with the City.

**Miller:** Expressed sincere appreciation for all Buckman has done for the City.

Public comment included:

**Bryce Kenny** – Trinidad

Buckman was a true son of Trinidad. He worked multiple jobs, found his calling, and will be missed.

**Jim Baker** – Former resident and Councilmember

It's important to note how much institutional knowledge will be lost with Buckman's retirement.

The full Council expressed their gratitude to Buckman and wished him the best.

*Motion (Miller/West) to approve Resolution 2020-07; Acknowledging the Public Service of Bryan Buckman.*

**Passed unanimously.**

**2. Discussion/Decision regarding 3-Month Contract Extension for Law Enforcement Services, Second Amendment, with the Humboldt County Sheriff's Office.**

City Manager Naffah explained that this agenda item was necessary to allow additional time needed to negotiate a new agreement.

There were no public or Council comments.

*Motion (West/Miller) to adopt the Second Amendment to Agreement to Provide Law Enforcement Services Within the City of Trinidad. **Passed unanimously.***

3. Discussion/Decision regarding Memorandum of Understanding (MOU) with the Trinidad Rancheria on Engaging in a Series of Conversations regarding City Water for their Hotel Project

Mayor Ladwig and City Manager Naffah explained that the City received a letter from the Trinidad Rancheria shortly after the May 13 government-to-government meeting. It seems as if the Rancheria is now halting cooperation on all matters with the City until a decision is made on the hotel project, including the Stormwater project to be completed in the harbor parking lot.

To keep the process from stalling entirely, Mayor Steve Ladwig, Mayor Pro-Tem Jack West, and City Manager Eli Naffah agreed to begin a conversation with the Rancheria on what each party is willing to consider for the water decision. This includes, but is not limited to:

- What are the terms of water delivery?
- What happens in drought years when water restrictions are required?
- What improvements to the water plant is the Rancheria willing to provide?

City Council is responsible for making informed decisions by considering all aspects of an issue. It also has the responsibility of keeping business moving in a productive and respectful manner, to the best of their abilities.

The Rancheria has been informed that the final decision rests with the entire Council and is based on facts generated by the water studies, the needs of the City, and all members of the greater Trinidad community. It also has been noted that the City remains committed to the partnership established by working together on projects of mutual benefit, such as the Stormwater Project.

A draft MOU has been prepared to present to the Council on Thursday that outlines what that conversation would look like for the City. The only desired outcome of the MOU and the conversation with the Rancheria is to bring several options forward to the City and the greater Trinidad community for discussion and decision regarding the Rancheria's request for water in open session at future meetings.

**Mayor Ladwig** asked the City Manager to summarize the guidelines for government-to-government meetings.

**City Manager Naffah** explained that the first step listed on the MOU is to engage in a dialogue. The State of Ca has Tribal Consultation Guidelines that require the local government to meet with less than a quorum of its members, and establish procedures to allow tribes to engage with local government in a confidential setting. The intent is to have a conversation to explore the Rancheria's request, and explain the City's needs and limitations. Meeting in a confidential setting allows us to obtain as much information as possible, and return to open meetings with a full scope for public discussion.

Council questions included:

**Davies:** Regarding the MOU, there are many specific points that appear to be discussed in closed meetings. I've asked, repeatedly, to have the content of these meetings reported back to the Council. People would like to know about these meetings. If this has all been discussed over the last year, why hasn't it been reported out.

**Naffah** replied, explaining the 8 points listed in the MOU are essentially a roadmap for further discussions and that no conclusions have been reached. Further, as pre the Rancheria's letter, they clearly believe the City has not been responsive over the last year. The Mayor, Mayor Pro-Tem, and I just recently drafted it. **Ladwig** echoed Naffah's comments, noting that this is simply a starting point that is open for deliberation. The Rancheria has not seen it until the meeting packet was published on Friday.

Questions/Clarification from the Council and Public:

**Jim Baker** – Former City Councilmember

Regarding Gov2Gov consultations, I was unaware that they are confidential. Davies is correct about reporting out, that meeting content should be reported out. We also should ensure whether an MOU has legal implications.

**Naffah** explained that the Brown Act allows exceptions for confidentiality for real estate negotiations, and cultural places.

**Shirley Laos** – Trinidad Rancheria

Meeting confidentiality protection isn't limited to cultural places. The categories are very broad. I would be very careful to describe statutory requirements by laypeople in a discussion. When we have our Gov2Gov meetings, there is not a quorum of local officials, and the Tribal Government can determine what content is confidential or not. The MOU was written by the City. The Tribe did not have any input, which was a point of contention for us. The Tribe is a sovereign government - not just a stakeholder, and not just citizens. We expect the same description of Gov2Gov meeting as the Council reports out from its own closed sessions.

**Richard Clompus** – Trinidad Resident

Requested an example of a confidential topic. **Naffah** explained that Hyatt developers would not want certain privileged information disclosed to its competitors.

**Jaque Hostler** – Trinidad Rancheria

Any topic that the Rancheria requests be held confidential, should be kept confidential. The Rancheria has been trying to work in good faith. Respecting this means respecting the confidentiality of the Tribe. The illusion that has been cast that there are back-room deals going on is false. Shirley and I were surprised to learn about the MOU through the press. The City Council (or someone) released it to the media first, but we perceived it as an attack. Having an MOU is meaningful.

**Sheri Provolt** – Yurok Tribal Councilmember

I respect the Gov2Gov process. Transparency is important. Coming out together with a common statement or goals is very important. Having the 5 or 6 points, or goals, to accomplish is very helpful.

Written comments:

All written comments received have been archived on the City website as part of the 05-21-2020 meeting record.

Public comment included:

**Bryce Kenny** – Trinidad

One big problem I see with the Rancheria's Gov2Gov meeting scenario is less that you have than a majority of the Council agreeing to substantive decisions about what might be confidential. Regarding the MOU, the road you're going down is extremely schyzophrenic. You have the Planning Commission working on a water policy to determine an outside-city connection process, and the Council is going down a completely different track. Now is not the time for an MOU. Everyone must be patient while the PC finishes their work. It's putting the cart before the horse. Once the policy is created, it can be applied to the Rancheria's request. Sunlight is one of the best disinfectant. There is a perception that deals are being made. The Hotel may, or may not be viable considering the current health crisis. Trailer parks north of town have requested water, and your General Plan already includes that area as a priority. Do the right thing.

**Jacque Hostler** – Trinidad Rancheria

I need to address some of the comments. It's a tried and true tactic to accuse an Indian Tribe of hostility. Neither the Trinidad Rancheria or Tribal Chairman have threatened the City. HARP's mischaracterization of the Tribe's letter evokes a long history in CA where a Tribe has been punished for standing up for its rights. They'll do whatever they can to keep the project from moving forward. HARP is not concerned with the City's water system. The City seeks the right to use the Tribes land for the Stormwater system, and the Tribe has expressed willingness in partnership if the City works in good faith with the Tribe. The Tribe has also expressed willingness to help improve the City's water system. A presentation was made in April 2020 by the Tribe to pursue this partnership. The Council agreed it would be worth pursuing a partnership to determine a positive path forward. The Tribe deserves a response to its year-old request. The Tribe has contributed over \$877,000 to the City's infrastructure over the last few decades.

**Don Allan** – Trinidad Area

*Submitted written statement.* I am a member of HARP, and disagree that we do not support a hotel. The Rancheria has stated the request is over a year old. The Tribe stated that an MOU must include other Tribes in the area. I have more questions than statements at this time.

**Shirley Laos** – Trinidad Rancheria

There is a difference between a Land Trust MOU, and a Gov2Gov MOU.

**Richard Harris** – Bay Area Resident

*Submitted a prepared statement, submitted to the City and included in the Public Comment Packet. Question about how the City decided to proceed with the MOU. Rancheria's representatives say they would like to think about the MOU for a while. It is very one-sided.*

**Jacque Hostler** – Trinidad Rancheria

The FONSI is ready and will be signed by the BIA representative. The Hotel Project is alive and well, and moving forward. The Rancheria has a right to develop, but we want to move forward with the City in partnership, sharing common goals.

**Anita Thompson** – Trinidad

We have a limited and finite water source. Can we still maintain a partnership while the Rancheria receives water from another source?

**Steve Madrone** – Fifth District Supervisor, Humboldt County

This is the biggest Webex I've ever seen. 75 participants. I have great respect for Gov2Gov meetings, but I firmly believe that an MOU is not needed. It creates a lot of problems in the community, as simple as it may seem. There is no water to offer. There is ample evidence in the reports received by GHD that without adding any new customers, the City's water supply may not be able to supply water to its existing customers during a drought period. If you understand this, and understand the last 30 years of promises to the north Trinidad area as codified in the General Plan, you'll realize there is not enough water, yet. You keep punting this back to the Planning Commission, but you clearly don't realize the limits of your water supply. I do. If the Rancheria reduces the size of their development and the community starts developing collection and storage, we can get to a better place.

Council comments included:

**Miller:** I second Madrone's comments. I support the MOU because it doesn't promise any water. All the reports I've read say there is very little, if any, water to share during low-flow periods. Storage is key. I will consider the MOU if it includes the drought considerations in the discussion.

**Grover:** I assumed that the MOU was developed by the City and Rancheria.

**Ladwig:** We have been asked as a City to be transparent with our actions, so this was developed in response to a stalemate reached that has affected our Stormwater Project.

**Davies:** I appreciate all the public comments that were sent in. I had zero knowledge of this MOU until I saw it in the meeting packet. I've heard about a formal request made for water, but I did not see it agendaized in any meeting packet over the last 2 years. Regarding Gov2Gov meetings, other communities meet usually once or twice a year and the meetings are agendaized and published. It would be nice to see agendas for these meetings. We do not have a final water policy yet. The Planning Commission is working on the drought contingency plan. We are considering entering into an MOU with a sovereign nation, and have no legal recourse if there are disagreements between parties. I will not support this MOU tonight, but in the future if one is proposed I would request sovereign immunity is waived by the Rancheria so we both stand on an even level.

Regarding the Gov2Gov meetings, I recommend that the City develop a policy that dictates meeting procedures. I would like to suggest the following motion for consideration:

*(Davies/Grover) 1) Considering the Planning Commission has been directed to complete the drought contingency plan of the draft Water Policy, I move to deny the request to develop an MOU with the Rancheria at this time, and 2) if in the future this topic reappears, the discussions will take place in open public meetings.*

**West:** I'm struggling with this. I thought we've been working in the right direction, but overwhelming public comment has me wondering if this is the best method. I've been impressed by how the Rancheria operates and I trust they are committed to our partnership. I like the MOU, but feel we'd be going against the community if I support it. I believe we need to work with the Rancheria, but either way we're in a tough position. I would like to take a step back and review the MOU, and during that time I would like the City to complete its Water Policy and use it as a guide. I received only 1 letter in support of the Rancheria's request. I'm struggling with this decision.

**Miller:** I request that you read the MOU. It does not reflect the letters received. We are not contracting with this MOU to give the Rancheria water. It merely gives us time to continue discussions with the Rancheria so they understand we're partners. It does not bind us whatsoever. The comments I received were focused on not

giving them water. I want to see a drought related item in the MOU. Voting against the MOU could give a tone that we're not interested in continued good faith discussions.

**Davies:** This is a very leading document. That's how I read it, and that's how I interpreted it.

**Ladwig:** This is an MOU to work with the Rancheria. I don't think the Rancheria wants to work with us on finding ways to not provide them water.

**West:** I support the first part of the motion, but not the second part. I still want to work with the Rancheria, but it may be possible to do this without an MOU.

Continued public comment:

**Bryce Kenny** – Trinidad

Davies motion is the right thing to do. It does not bind you at all. It simply allows you to finish a process you've already started. It requires the Rancheria to be patient.

**Katrine Homan** – Trinidad Area

I request that you support the MOU. Keep talking with the Rancheria. At the Coastal Commission meeting in August, they were told that a Water Policy would be prepared in December/January. They've been waiting patiently. For the City it's only a small inconvenience, but the Rancheria is shouldering all the consequences. They've received accusations about them being bullies. This MOU just levels the playing field. A partnership could result in collaborative discussions in a timely manner that balance all interests.

**Don Allan** – Trinidad Area.

If it has to be one way or the other, it should be no, until there is more data. It's immature to enter into the unknown without all the data. There seems to be a distrust in these Gov2Gov meetings, so I suggest including Supervisor Madrone as a participant.

**Jacque Hostler** – Trinidad Rancheria

Echo Councilmember Miller's comments. Think about this very carefully. The current motion may put you down a path of no return. We're trying to maintain a good faith relationship, and saying you aren't willing to do that is a very serious decision.

**Sheri Provolt** – Yurok Tribal Councilmember

An MOU isn't needed, but it's very important to have a collaborative Gov2Gov meeting focused on the science and data on water issues, and think about moving forward in developing a sustainable water system (and waste water systems) for Trinidad and the surrounding area. Your relationship with the Tribe is vital.

Final Council comment included:

**West:** I agree with Sheri Provolt, and I feel very good about her suggestion. I would like to clarify that we want to move ahead in the future together, collaboratively, and would like to write that up somehow.

**Grover:** Agree with West.

**Davies:** I've redrafted my motion in the chat feature of the Webex, as follows:

*(Davies/Grover) Considering the Planning Commission has been directed to finish the Water Policy draft, complete with a Drought Contingency Plan, I move to deny the request to develop an MOU with the Trinidad Rancheria at this time. Furthermore, if the topic of this MOU reappears in the future, all negotiations regarding said MOU will take place in an open public meeting. Motion passed by the following vote: YES - Grover, Davies, Ladwig. NO - West, Miller.*

**VI. FUTURE AGENDA ITEMS – No items discussed.**

**ADJOURNMENT: 9:15pm.**

**Submitted by:**

\_\_\_\_\_ signed copy on file \_\_\_\_\_

**Gabriel Adams**

Trinidad City Clerk

**Approved by:**

\_\_\_\_\_ signed copy on file \_\_\_\_\_

**Steve Ladwig**

Mayor